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FROM

Mrs. Shattuck

Boston

25 June, 1901

Geo. O. Shattuck

MEMOIR

OF

GEORGE OTIS SHATTUCK.

BY

OLIVER WENDELL HOLMES.

[Reprinted from the Proceedings of the Massachusetts Historical Society, November, 1900.]

WITH AN APPENDIX.

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HARVARD
JUN 20 1901

Mrs Shattuck,
Boston

MEMOIR.

GEORGE OTIS SHATTUCK was born at Andover West Parish, Massachusetts, May 2, 1829, on the farm which had been owned by his family since David Abbot, his great-great-grandfather, settled there in 1725 and reclaimed his fields from the wilderness.

The granddaughter of this David Abbot married Joseph Shattuck in 1790. He was a soldier in the Revolutionary War; wintered at Valley Forge, and with other returning soldiers fell ill of small-pox in Boston on his way home. He arrived to find that his father had died in his absence, and he never returned to the army. His "love and duty" kept him at home to care for his "honored mother" and her children.

Joseph Shattuck, his son, the fourth of that name, married Hannah Bailey in 1826. George Otis was the second of their four sons. They lived on the old farm, whose pleasant, fertile fields slope gently back to the Merrimac River. On the opposite side of the highway was, until a few months ago, an old well, the only relic of the house David Abbot built; thence the fields stretch back into pastures and fine woodlands. It is a region of smiling peace; and here Mr. Shattuck spent his boyhood, and under the excellent training of New England home and church and school were founded his integrity of character, his industrious habits, and his vigorous constitution. Here too he became a strong swimmer, a good horseman, a practical farmer, and to some extent a woodsman, familiar with trees and birds and the aspects and signs of the sky.

His intellectual ability early became evident and determined his career. He always retained his love of farm life and understood its processes, and his interest in these afforded him healthful recreation in his later laborious years. These words, spoken of him by a dear and close friend before the Bar Association, touch this point: "His fondness for farming was a noticeable feature. I think he had a sympathy with the great quiet forces which he saw at work, and a sympathy with the animals of the farm; also the visible return which the earth makes for labor, pleased him. It made him feel that he was adding to the world's stores."

Hannah Bailey, his mother, was a woman of strong character and liberal mind, generous and self-sacrificing. She had been a teacher before her marriage, and earnestly desired the best education possible for her children.

Her family also served their country and to their own sad loss. Her grandfather, Samuel Bailey, was killed at Bunker Hill. Her father, then a boy of sixteen, went also to the battle and returned unhurt.

Joseph Shattuck was upright and honorable, eminently calm and self-possessed by temperament, but a man of great force. He was held in high esteem by his fellow townsmen, whom he represented in the Legislature in 1838 and 1839, and was one of the selectmen of Andover for sixteen years.

Thus, both Mr. Shattuck's parents and their families were of the best New England stock. They fulfilled faithfully the simple duties of their lives and walked uprightly before God and man.

Mr. Shattuck was fitted for college at Phillips Andover Academy, and began to teach school in the vacations when sixteen years old. He entered Harvard College in 1847 and was graduated in 1851. He held the regard and respect of his classmates for his friendly disposition, and, as one of them has phrased it, "his upright conduct, which was such that none of us will ever forget it." The late Professor Dunbar

spoke of him as one of the most prominent men of his class, and related that he was chosen President by a unanimous vote, when, as was usual in those days, there was a division in the class and a stormy class meeting was expected. Mr. Shattuck presided at this meeting with great skill. He was able to quell instantly every sign of disturbance, and the meeting was one of the most orderly that had been held for a decade.

Throughout his college course, as in his school days and in later life, he was earnest, faithful, conscientious, and high-minded. He was always interested in religious subjects and convinced of their importance. All the ministries of the church appealed to him from his youth up. He took pleasure in reading and learning hymns and poems expressive of religious feeling. The simple verses of Whittier and certain poems of Browning, Emerson, and Tennyson were dear to him; and when years of stress and anxiety came he was often visibly calmed and refreshed by a half hour with his favorite books.

Edward Everett was President of Harvard College in 1847, and was succeeded by Jared Sparks before Mr. Shattuck was graduated; but the man whose influence appears to have been greatest over him at that time was Dr. James Walker, Professor of Moral Philosophy. They became friends and so remained during Dr. Walker's life; and Mr. Shattuck never ceased to the end of his own life to recall from time to time words of wisdom of his old friend. On the one side was a reverential attachment and appreciation; on the other the kindly interest and regard of an old man for one younger; and on both sides entire confidence and respect. Dr. Walker made him the executor of his will.

Mr. Shattuck taught at Mr. Stephen M. Weld's school in Jamaica Plain the first year after graduation, and entered the Harvard Law School in 1852. He was at that time Proctor in the north entry of Stoughton, in which part of the building the Hasty Pudding Club then had its rooms, and, although a

Proctor, he was very popular with the undergraduates, — so much so, in fact, that the Hasty Pudding Club elected him an honorary member. During his two years' course at the law school his friends were among the best of the young men then in Cambridge, — men of the highest type, who all attained distinction. Of them were C. C. Langdell, Chauncey Wright, Darwin E. Ware, James B. Thayer, Charles F. Dunbar, W. R. Ware, Charles W. Eliot.

His interest in William Gibbons, a brilliant youth who died suddenly in college in 1854, gained for him the valuable friendship of his mother, Mrs. Gibbons, of New York. No one could have exerted a finer influence over the mind of a young man quick to feel and admire high qualities in his friend than this noble woman.

Mr. Shattuck entered the office of Mr. Charles G. Loring as a student in 1854. Perhaps the remarkable enthusiasm with which he took up his cases may be, in a degree, ascribed to the influence of Mr. Loring at that time. He used to say that "Loring was a man who always believed in his cases," and this exactly suited his own temperament. His devotion to a client and his cause was always absorbing, and it was quite certain that they would receive the full benefit of his powers. He was admitted to the Bar in 1855, and at once formed a partnership with Mr. J. Randolph Coolidge. This, however, was soon dissolved, and in 1856 he became the junior partner of Hon. Peleg W. Chandler, who thus early recognized his ability and greeted every subsequent success of his with generous interest. The encouragement and companionship of a man so strong and able could not have been without marked effect on Mr. Shattuck's career. Their friendship continued to the end of Mr. Chandler's life.

In 1870 Mr. Shattuck and Mr. William A. Munroe entered into a partnership which was to last while Mr. Shattuck lived, with increasing love and respect on the part of both. The present Chief Justice of the Supreme Court was a member of

this firm for nearly ten years, until 1882, when he was appointed Associate Justice of the Supreme Court. This was an occasion of the sincerest satisfaction to Mr. Shattuck, touched indeed with regret at the loss to himself and his office; but no separation could diminish the affection with which he always regarded his "Junior Partner."

Mr. Shattuck was married in 1857 to Emily, daughter of Charles and Susan (Sprague) Copeland of Roxbury, and took up his residence in Boston. He at that time became a member of the First Church, of which Rev. Rufus Ellis was minister. As in everything else to which he had once given allegiance, so he never failed in this connection, and for the remaining forty years of his life he was a constant attendant, a generous friend, and a wise counsellor in the affairs of the Church.

About the year 1875 he became strongly interested in the preservation of the Old South Church, and he bestowed much time and labor upon it. An able speech before the Legislature in the winter of 1875 or 1876 was of distinct service to the cause. He had the privilege in this matter of working in concert with Mrs. Mary Hemenway, whose enthusiasm stimulated his own in the care of the old building.

His love for Harvard College always grew and strengthened. He was for twenty-one years a member of the Board of Overseers, and was deeply interested in the administration of the University and in the appointment of Charles W. Eliot as President. "For thirty years his sagacious advice and well-directed efforts were recognized and regarded as of the highest value by those who controlled the management of the University." [1]

In his forty years of life in Boston he became a member of numerous clubs and societies, and lent generous aid to charities and institutions and literary enterprises. He was for more than thirty years Trustee of the State Library and of the old Boston Library. The monthly meetings of the twelve trustees of the latter and of the Law Club afforded great pleasure

[1] John C. Ropes.

to his eminently social disposition, and the good talk at these tables instructed and stimulated him. The Wednesday Evening Century Club also gave him many a pleasant hour, for he may be written "as one who loved his fellow men."

How abundantly this love was returned by men younger than himself, for whom his interest was one of the happy conditions of his life, and for whom his encouragement was unfailing, was shown by letters received from them after his death, — letters spontaneous, sincere, and grateful.

The summer place at Mattapoisett was a source of joy and health to Mr. Shattuck; and to others also, he liked to think. Nothing made him happier than to fill his yacht with a cheerful company and sail to the adjacent islands, to New Bedford, or Gay Head; or farther still, to Nantucket or Provincetown. What shining days were those when a favoring wind blew and the waves danced — or rushed — before the prow! He loved to subdue the stubborn soil of his rough acres and to cut paths through the sturdy and tangled woods. Nor did he weary of the sandy roads of that monotonous but engaging shore, or ever fail to be interested in the welfare of the town and its people.

But of all his social pleasures the meetings of a Club made up of his early friends gave him most enjoyment. This Club he loved, — "Our Club," as the members called it.

Mr. Shattuck went to Europe for the first time in 1868. In 1880, when his health required rest and change, he spent a year abroad and came home strong and well and full of courage. He had recognized, as if by instinct, what was finest in cities, in picture galleries, in cathedrals, in natural scenery, and had studied the language and politics of every country he visited.

He travelled also extensively in his own country, at the West, and knew the Pacific Coast from San Diego to Vancouver. He talked everywhere with people, with men of all estates, and they were glad to talk with him. He believed

thoroughly in a great future for California, and this perhaps led to troubles and embarrassments in his later years. In this connection it was said by one who knew him well: "He had the defects of his qualities, as everybody has who has any quality. It was the defect of his noble quality of loyalty that made him cling to and engage more deeply in enterprises in which his fortunes and his sympathies were enlisted, in spite of changed surroundings and prospects. When the blow fell, he bore it without flinching; he took up his work more persistently than ever and never put off his harness till the end."[1]

He was offered the position of Judge of one of the Federal Courts and also of the Supreme Court of Massachusetts, but he preferred the practice of the law, in which he delighted. His profession was full of intense interest for him.

"From the time when as a student he diligently compiled and wrote notes to 'Parsons on Contracts' to the time of his death, he kept constantly abreast of the learning of the day, and stored it in due and logical order in his memory, so that he could produce it at once when called upon. [He had a very clear mind and a large proportion of what is called common sense, that is, judgment applied to the common affairs of life.] His power of work seemed inexhaustible and was given to all his cases, whether large or small. [Altogether there were few lawyers of his time who, in all branches of practice were worthy to be called his superiors."[2]]

Nor was he without interest in public affairs; over political questions indeed he was sometimes almost painfully interested and excited, and, though stanch to his party, was able to criticise its action in an unbiassed manner. He early reached eminence; he was retained in great and important cases, and became easily recognized as a leader at the Bar; and all the time was building up the weighty character, compact of in-

[1] George Putnam, before the Bar Association.

[2] Judge John Lowell.

tegrity and earnestness, strength and high principle; inspired by an honorable ambition and tempered by the kindliness of a large and very human heart, which was held in honor by the community in which he lived and worked.

A few months before his death he was elected President of the Bar Association of Boston, an honor which was very grateful to him. But his health soon failed so rapidly that he never presided at a meeting of the Association. He died February 23, 1897, leaving one child only, Susan, the wife of Dr. Arthur Tracy Cabot.

The foregoing memoir was prepared by another hand than mine, but it breathes such piety and love that it seems to me that I best do my duty to the Society by presenting it untouched, except by the addition of a few words of estimate.

[Young men in college or at the beginning of their professional life are very apt to encounter some able man a few years older than themselves who is so near to their questions and difficulties and yet so much in advance that he counts for a great deal in the shaping of their views or even of their lives. Mr. Shattuck played that part for me. Whether the fact has influenced my opinion I must leave others to judge, but I think that Mr. Shattuck in his prime was the ablest advocate I ever knew. I do not believe that I ever knew his equal in all-round capacity to have his way in a case, taking into account all the honorable things that sooner or later may have to be done before success is reached. He was profound and far-reaching in plan. He was vehement in attack and stubborn in defence. He was fertile in resource and very quick in seeing all the bearings of a fact or of a piece of testimony, a matter in which most men of weighty ability are slow. He was a great cross-examiner. He was a speaker who brought himself home to juries, and who was a master in the argument of questions of law.]

He was a true and generous friend, and tales might be told to show his even heroic devotion, were it not better to respect the delicacy which led him never to let such things be known. He was no less liberal of himself down to the very sources of life in matters of public and semi-public interest which seemed to him to need the support of his Atlantean shoulders. In short, his was so voluminous a nature, in intellect and character and heart, that if at times I have felt an inherited apprehension that in our strenuous air the temperaments of men were in danger of attenuation, when I think of him I realize that New England still can produce a man adequate in brain and muscle and nerve to all great issues, and memory restores my courage as it also recalls an unforgotten love.

APPENDIX.

AT the meeting of the Massachusetts Historical Society held in March, 1897, Professor JAMES B. THAYER was called on to speak of Mr. Shattuck, his friend and former law-partner. Mr. Thayer said: —

Mr. Shattuck was elected a Resident Member of this Society on June 13, 1889. Probably he was not chosen with any expectation that he would be able, during his busy years of practice, to attend the meetings of the Society often, or to contribute papers to its Proceedings. If any such hopes existed, they have been disappointed. He brought to us, however, the support of a wise and able adviser; and if his life had been spared he would probably, as he came gradually to withdraw from the pressure of his work, have been seen here oftener and have come to take a more active part. . . .

From the very beginning Mr. Shattuck has always been a successful man, and, among his contemporaries, a leader; and no one ever doubted that his success and distinction were deserved. All through his life he won what he got by the strong, direct, vigorous efforts of a man who felt himself competent for his task, and who had thoroughly prepared himself for it. In the thick of the struggle he saw what he foresaw. He was a man unused to defeat, and little disposed to tolerate it when it seemed to be thrusting itself upon him. His adversaries often found that he developed at such moments a startling capacity of saving a hopeless cause, by the skill, the careful thinking, the knowledge of law and legal procedure, and the endless persistence and endurance which he would suddenly bring to bear upon the situation.

If I say of Mr. Shattuck that he was a learned lawyer, I do not mean learned in the sense of being what is called a legal scholar, or one who is given to the study of law apart from the requirements of his own cases and his own practice. But, nevertheless, he *was* learned and accomplished. . . . All his large experience had been transmuted into an

extensive and ordered body of learning. . . . Outside of his profession Mr. Shattuck was a thoughtful man, of large views and acquainted with many subjects not connected with the law; so that his conversation was instructive and interesting. While he was always a gentleman, friendly and courteous, he did not devote himself to the smaller arts of social intercourse; he was often absorbed and preoccupied with what crowded upon his own mind, and likely at such times rather to take possession of the field of conversation than to invite his friend out into the open. He was a man plain and solid, rather than brilliant; but always he was full of intelligence, large-natured, tender-hearted, and of an engaging simplicity of character. Especially he had a capacity for cordial and intimate personal relations, and an incapacity to hide anything from his friends, even if he tried.

One who knew him intimately writes to me, happily and truly, of "his great interest in children, in young people, and in men just starting in life; his enthusiastic admiration, which never grew cold, for the men and women, and even the places which had once engaged his affection; and that large nature to which things appealed by their magnitude, and which demanded for playthings nothing less than a farm, a woodland, or a boat, in which to sail miles away." He dearly loved all country sights and sounds, and had long passed his summers upon his beautiful farm on the bay at Mattapoisett.

I have said little, directly, of my own personal acquaintance with Mr. Shattuck. It began in college and in college societies nearly fifty years ago; I was in the class next below him. But it was not until some three or four years later that I began to know him well. As a fellow-member of a social club of our contemporaries and nearer friends, as his partner in business for several years, and, in course of time, as a friend admitted to cordial and intimate relations, I am able to say of him that he was one of the best, kindest, and most devoted friends, one of the most faithful and trustworthy legal advisers, one of the most competent, thoroughly prepared advocates, one of the best citizens, and one of the most faithful, strong, and upright men I have ever known.

On Saturday, May 29, 1897, the Suffolk Bar met in the Supreme Court room and paid its tributes of respect to the memory of George Otis Shattuck, one of its distinguished brethren and the President of the Boston Bar Association. Resolutions, which had been drawn up by a committee of five, were presented to the Court after addresses by several members of the bar had been heard.

The recollection that two members of the committee had already died was, perhaps, painfully present to the minds of all who took part in the exercises. Hon. Darwin E. Ware died on the 2d of April, Judge John Lowell on the 14th of May. The meeting was organized with the choice of Lewis S. Dabney, vice-president of the Boston Bar Association as Chairman, and Henry Wheeler as Secretary. Mr. Dabney stated the purpose of the meeting, and asked for the report of the Resolutions Committee. This was made by Professor J. B. THAYER, who read the resolutions as follows: —

The committee appointed to prepare and present to the Association resolutions on the death of George O. Shattuck, late its President, respectfully report the following: —

The members of the Bar Association of the City of Boston, having been called together to take notice of the death of the late President of the Association, George Otis Shattuck, on February 23d, 1897, desire to place upon its records an expression of their sense of the loss that has befallen the Association, and of their appreciation of the high qualities of Mr. Shattuck's character.

Mr. Shattuck came of an old Massachusetts family of English descent, and passed his whole life in Massachusetts. He enjoyed the best advantages of training and education which our State affords and well improved them. At the Phillips Academy in Andover, at Harvard College, and at the Harvard Law School, he was a faithful and distinguished student. Beginning the practice of law in Boston in 1855, he was, almost from the very outset, a busy and successful practitioner. The qualities of intellectual strength, learning, skill, and good judgment, of careful preparation for his work, intense interest in his cause and his client, industry, persistence, sound sense and integrity, were apparent in him at the beginning, and all through his career. It was by force of these qualities, enlarged and enriched by a long experience, that he rose to be one of the recognized leaders of our bar, to be selected for the offer of high judicial station, and to receive the highest honor that his brethren of the bar could bestow.

Mr. Shattuck was a man of a serious and large way of thinking, which took account of many aspects of life. He was keenly interested in public affairs. At the primary meetings, and by public and private discussion, he endeavored always to do his part in shaping the fortunes of his city, his State, and the nation. In the affairs of the religious

denomination to which he belonged, he had long been actively enlisted, whether as a member of its principal national organization, or as one of the Prudential Committee of the First Church in Boston. For many years he had been an Overseer of Harvard University, and in that capacity and otherwise had been actively and deeply interested in promoting the welfare of the College and the Law School. And for a long time he had been one of the trustees of the old Boston Library and the State Library.

In his more private life Mr. Shattuck had much that brought him happiness. In his travels and at home, in the city and the country, he was surrounded with many of the best blessings of life, and he knew how to enjoy them. He had the society of the best among the men and women of his time, and he was honored with the friendship and confidence of some of those whom he himself most revered and honored. Few men are framed for a heartier enjoyment of intimate social relations; few men have manifested to their friends deeper or more cordial affection; and few men have received from them a heartier return.

JOHN LOWELL.
CAUSTEN BROWNE.
SOLOMON LINCOLN.
DARWIN E. WARE.
JAMES B. THAYER.

Mr. A. S. WHEELER spoke as follows: —

We had in Mr. Shattuck a strong man, an able lawyer, a public-spirited citizen, and a good friend. He was the son of a New England farmer, and grew up upon his father's farm under the best influences of New England life, when that life was at its best. All his surroundings, all the influences operating upon him, were conducive to the building up of a vigorous constitution, a healthy moral character, and an active mind; a mind capable of dealing with whatever might be the exigencies of his career in adult life.

While he did not spring by a single bound to leadership, he became in a short time one of the men to be reckoned with, and was retained in important cases as senior. He had not the gift of the orator, but there was a robust common sense in his arguments to the jury, that enlisted their attention and appealed to their judgment. He knew their ways of thinking and how to adapt his arguments so as to secure a lodgment in their minds, and to lead them to the conclusions which he sought. Judging by the favorable verdicts he secured, he was a successful jury lawyer, as several remarkable cases abundantly witness.

It was not my fortune to see Mr. Shattuck often before the full bench, but in all that I saw of him there he was equal to the occasion. He presented his case, and his whole case, with a completeness that showed there need be nothing more said on that side.

In that important branch of professional business that does not find its way into the courts, — in the giving opinions, the advising of clients, and conducting negotiations, where knowledge of affairs, judgment, tact, and, I should add, common sense, as well as knowledge of law, were required, he was at home, and the number and character of his clients, corporations as well as individuals, and their confidence in him, show how successful he was in this field, of which of course the outside world can know so little.

No man can be a lawyer in the large sense unless he respects the profession and pursues it in a spirit of self-respect; unless he regards it as a learned and liberal profession, and himself as one of its ministers. Mr. Shattuck belonged to the class which give dignity to the profession, and make it one of the bulwarks of all that is best in the life of the people.

Mr. Shattuck was a public-spirited citizen. He did not seek political office or preferment; but he took an interest in the affairs of the city, the State, and the country, and in many ways did what he thought would promote the public benefit. He was not a politician of the ordinary type, but felt, as every man ought to think, that politics concerned him, and that he had duties in addition to casting his vote at the polls. What he did in this regard was done quietly and with an honest purpose to serve the right. He could always be depended on to assist in every good cause, whether political or otherwise, which commended itself to his judgment.

He was a man of good temper. During my intercourse with him for nearly forty years, and sometimes when there was the kind of conflict which is very apt to rouse the feelings, I never knew him to be excited so as to give expression to words necessary to recall, or which were harsh. He was firm, very firm, in insisting on his view of what should be done, and strove hard to accomplish his purpose; but all was done with good nature, and generally with good humor.

Mr. Shattuck was a good friend. The intercourse of so many years gave me to know and to realize this. While keen and eager in the pursuit of his own interests, strenuous in his efforts for personal success, he was always ready to speak the kindly word and do the friendly act. Not only the bar, but the community sustained a loss when he passed away, and his memory deserves honorable commemoration.

Mr. CAUSTEN BROWNE spoke as follows: —

Those of us who were present at the recent dinner of the Bar Association remember what was so wisely and forcibly said by our guest of honor on that occasion about the altruistic habit of mind which grows out of the study and practice of the law. "No lawyer worthy of the name," said he, "makes self, his own private advantage, the objective point of his endeavors. By virtue of the professional relation he becomes the champion of others, in whose cause he cannot exert himself too strongly, or sacrifice too much." I refer to these words now, because I think that this self-forgetting, self-effacing devotion to the interests intrusted to his care marked our brother Shattuck's professional character in an extraordinary degree.

When you couple this all-controlling sense of professional duty with uncommon intellectual power and professional knowledge and uncommon capacity for sustained and persevering effort, you get what Brother Shattuck truly was, — a strong man, a powerful ally, and a formidable antagonist, who impressed himself deeply upon any cause which he undertook.

With such strength of conviction and resoluteness of purpose we are apt to find, as human nature goes, a certain unamiable quality, known as arrogance, — the quality by which we make peremptory demand upon others for submission to our judgment or our will; but Brother Shattuck seemed to me to be wholly free from it. He was one of the most patient and courteous of men, — a courtesy which was the natural expression of a very kindly nature, a patience which grew out of sincere modesty in his judgment of himself.

He loved the law and the practice of the law, and was happy in its labors, its contests, and its rewards. He had also a strong sense of professional brotherhood, without which the practice of the law loses much of its dignity and all of its charm. I believe that the honor paid to him by his professional brethren in electing him President of the Bar Association was a matter of the deepest gratification to him. It is pleasant now to think that his last days were cheered by that mark of his brethren's respect and regard.

He was conspicuously one of the few who amid the pressing cares of professional life found time and interest to spare for the service of their fellow citizens. They always counted upon him when they needed wise and disinterested counsel and service, and never counted upon him in vain. He was always ready to work for any cause which concerned the interest of the community in which he lived; and was quick to acknowledge and earnest to fulfil the duty of protecting the weak,

relieving the needy, comforting the distressed. He was habitually much absorbed in his work, — too much, so it seemed to me, for a wise man to allow himself to be. I always thought that on this side of his character there was a serious defect, and that it did something towards shortening his life. Certainly his sturdy build and placid temper and moderation of living gave promise of a longer career.

I do not think any one saw him at his happiest who did not see him, as I often did, at those times in the summer vacation when for a few days he would turn his back upon his work completely, and betake himself to his home at the seaside. There his hospitable spirit had free course. There he enjoyed the company of his friends at leisure, and without misgiving or self-reproach. There he enjoyed also his familiar meetings with his plain neighbors, seafaring men and others. He respected them, and they respected and trusted him.

I wish to say one word more, and it is almost the best word one can say of any man, — he was a loyal and steadfast friend. I do not think I have ever known a man who prized his friends more truly, or gave himself more generously to their service. He seemed to me to enjoy nothing quite so much as doing some kind act for a friend. These are the things which we, who knew him well, love to think of. They belong to that remembrance which "smells sweet and blossoms in the dust."

Mr. Solomon Lincoln said: —

The duty of a commemoration like this has fallen upon us repeatedly and heavily of late. I do not mistake in calling it a duty. The fame of the most successful lawyer is so evanescent that it is our duty to him to preserve it so far as we may; and our duty to ourselves to secure the full benefit of his example.

Mr. Shattuck was eminently one whose example should not be lost. Born of the best New England stock and inheriting qualities tried and tempered in the fierce trials of our early history, himself possessed of high abilities, educated with the best training which New England can supply, he naturally and rapidly rose to be a man of breadth, liberality, and influence, — one of those who have always been the strength of our community, and whom it has always been our good fortune to possess.

Giving himself entirely to his profession, holding no public office except that of Common Councilman of the City, he steadily advanced until he early became a recognized leader. He built upon that foundation of sound common-sense and of integrity which are the necessary foundation of success in our profession, as in all others, and by a wide and varied experience in large affairs he acquired learning and wisdom. I do not mean that he was learned in case lore, but he was so familiar

with legal principles and their constant application that his mind became saturated with them, and he was in the fullest sense learned and wise. Knowledge came and wisdom did not linger.

He was a prudent counsellor, so guiding the affairs of his clients as to forestall controversy, yet when controversy arose he was an efficient and powerful ally. He so studied his causes as to be keenly alive to the strength of his opponent's position, and that same study called into play the resources of a naturally fertile mind. He never lost the sense of the true relation and proportion of the elements of his cause. No point which could fairly make for the advantage of his client was overlooked or neglected. The tenacity with which he held his ground was conspicuous. His courage rose with danger. It was most difficult to dislodge him from any position which he deliberately assumed.

The same qualities which gave him breadth of view and hence professional success, led to broad views of affairs beyond the scope of professional life.

He was a genuine patriot, earnestly interested in public affairs, and all good causes relied on him for intelligent support. His religious opinions were consistent with the traits which we have attributed to him. They were liberal, but firmly held.

Of Harvard College he was a faithful son. Although, as I have said, he held no important strictly public office, he was for many years an Overseer of the College, and was a wise, conservative, and trusted counsellor. While not claiming literary distinction he was distinctly a scholar. Bred in the older days when the education of students was guided more by the experience of their elders than intrusted to the too unrestrained freedom of their own choice, he preferred to walk in the old ways.

The older system, I still think, produced a better developed and more symmetrical product than the new, and Mr. Shattuck was an excellent type of the best results and merits of the former. But his own training and mental habit led him to a keen and generous appreciation of thorough scholarship wherever displayed. He was dignified in bearing. Never forgetful of the amenities of professional intercourse, he was a loyal associate and a courteous opponent. With him there was no roughness in the conflict.

I remember reading recently an assertion made by a suggestive authority that a certain degree of insolence is necessary to the successful barrister. If this is a rule, Mr. Shattuck was certainly an exception.

He held his profession in profound respect. Courts were to him seats of justice for the administration of law, not exchanges for the transaction of business and the ratification of bargains. He kept faith-

fully his attorney's oath. He conducted himself in the office of attorney within the courts according to the best of his knowledge and discretion, and with all good fidelity, as well to the courts as to his clients.

Personally he was a most agreeable friend. Those who were privileged to share the more intimate relations of social intercourse and the hospitality of his home can retain only pleasant memories of him. His genial and kindly nature would have insured this, but his culture and his long and varied experience made him a most interesting companion.

Mr. GEORGE PUTNAM said: —

My acquaintance and friendship with Mr. Shattuck began soon after I had entered college in 1850, when as a rather young freshman I happened to board at the same table with him, then a senior, rather older than the average and mature for his years. I need not say how that relation multiplied the difference of age.

When nearly two years after graduating I began to think of studying law, it was to him — just starting in practice at 40 State Street — that I turned for advice as to my new project, and got wise counsel and perhaps undue encouragement.

Very soon after, he formed his partnership with Mr. Chandler and moved to No. 4 Court Street, where after leaving the Law School I was admitted as a student. Mr. Chandler was then just past forty, but had already had a very remarkable career, and enjoyed a distinguished position at the bar and in the community. His increasing deafness, however, was beginning to make him depend more and more upon his associates, and Mr. Shattuck soon found himself pitted against some of the ablest advocates of the day, such as Dana, Durant, Butler, Andrew, in hard-fought trials and important legal arguments. In these contests he soon proved his quality, and at a very early age became known as a lawyer competent to deal with important matters, whether before the court, or the jury, or in the consultation room. . . .

Mr. Shattuck was an earnest and thorough student — I do not mean a scholar. He had, I fancy, little love for the niceties of learning. But he wanted every question reasoned out to the very bottom, every authority found and carefully considered, every analogy that occurred to his fertile and active mind thoroughly worked out, all the facts of experience and common knowledge that bore upon or illustrated the question in hand, brought out and their relation to the issue clearly shown. In short, he took broad views of every question before him, and made a careful study of the whole surrounding field of thought and fact.

He had, as we all know, a great gift of clear, forcible, and persuasive speech, reinforced by an earnestness of manner which was the outward

sign of the intense conviction, which he seldom if ever lacked, of the righteousness of his client's cause.

He had also the prime manly virtues of pugnacity and courage. He enjoyed the struggle — the more difficult, the better he liked it. His energy, tenacity, and fertility of resource were inexhaustible, and his confidence in the ultimate triumph of right knew not despair.

He had with all these fighting qualities a cool brain and a fine temper. He was never flustered, or irritable, or impatient. This fine temper, to my thinking, showed the largeness of his mould and the sweetness of his nature. He had no petty personal feelings to warp his judgment, however it might be swayed by intense loyalty to his client's cause. He thought not of himself but of the matter in hand. It naturally followed that with all his combativeness his influence was on the whole for peace, and that he was as successful in negotiation as in litigation. . . .

He was a good citizen, a steadfast friend, a strenuous but placable foe, a wise counsellor, a patient worker, a tower of strength in the stress of conflict, and a lawyer in honoring whom we honor our profession.

Judge HOLMES, in accepting the resolutions, said: —

Gentlemen of the Bar, I owe Mr. Shattuck more than I ever have owed any one else in the world, outside my immediate family. From the time when I was a student in his office until he died, he was my dear and intimate friend. He taught me unrepeatable lessons. He did me unnumbered kindnesses. To live while still young in daily contact with his sweeping all-compelling force, his might of temperament, his swiftness (rarely found with such might), his insight, tact, and subtlety, was to receive an imprint never to be effaced. My education would have been but a thin and poor thing had I missed that great experience. The things he did for me in other practical ways even gratitude cannot enumerate nor remember. It seemed to me that he could not find any one near him without interesting himself in his fortunes and his fate.

You cannot expect, then, from me a critical analysis and estimate. I could not sit coldly down to measure and weigh his qualities, or "peep and botanize" upon his grave. He was my dear and honored friend. I can do little more than repeat that.

Some of his qualities, however, were manifest to any one who knew him well. He needed the excitement of advocacy or of some practical end to awaken his insight. But when it was awakened there was no depth of speculation or research which he was not ready and more than able to sound. His work may not always have had the neatness of smaller minds, but it brought out deeply hidden truths by some invisible radiance that searched things to their bones.

He seemed to like to take great burdens upon himself. Not merely when there was a corresponding reward, but when his feelings were touched, as well. He was a model in his bearing with clients. How often have I seen men come to him borne down by troubles which they found too great to support, and depart with light step, having left their weight upon stronger shoulders. But while his calm manner made such things seem trifles, he took them a good deal on his nerves. I saw the ends of his fingers twitch as he quietly listened and advised. He never shunned anxiety, and anxiety is what kills.

His swiftness and tact, which I have mentioned, made him great in cross-examination, the command of which the late Mr. Durant used to call the highest gift of a lawyer. A large part of the cross-examination which I hear, even from able men, seems to me to waste time and often to hurt their case. Mr. Shattuck, while he was in the habit of trying cases, rarely made a mistake. He saw the bearing of every answer on every part of evidence. If by any chance he got an unexpected reply, he adjusted himself to it in a flash, and met it by a new approach from some remote side. He could bring out the prejudices that unfitted a witness for just this case, and yet leave his general value and his personal feelings untouched with a delicacy, clearness, and force that left me simply astounded.

At the time to which I refer, when I first knew him and while he still tried many cases, he was a great man with the jury in every way. His addresses carried everything before them like a victorious cavalry charge, sometimes, as it seemed to me, sweeping the judge along with the rest in the rout. Latterly his most successful appearances were in arguments of law. He had learned the all too rarely learned lesson of pointed brevity. In a few luminous words he went to the bottom of his question, and then took his seat. In short, I know of no form of forensic effort in which at some time in his career he had not reached as high a point as I personally ever have seen attained.

He was no less eminent in his work out of court. He was one of the wisest and most far-seeing of advisers. I know of splendidly victorious men who have said that but for his help when the battle was turning against them they would have gone down in the fight.

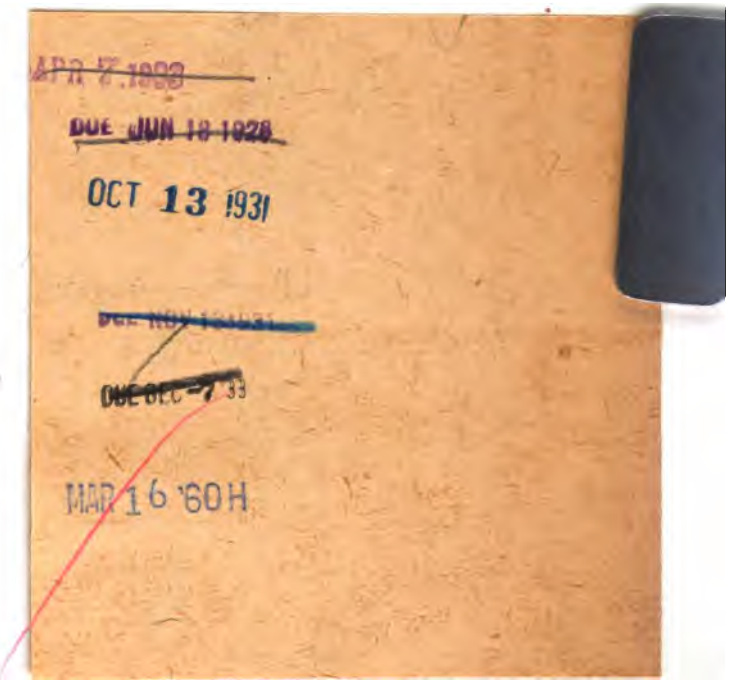
But that great vitality found only a partial outlet and expression in the law. He liked to ride and drive and sail and farm, and at times to talk. His fondness for farming was a noticeable feature. I think he had a sympathy with the animals of the farm. Also the visible returns which the earth makes for labor pleased him. It made him realize that he was adding to the world's stores.

I have had much delight in his companionship. Whether driving over the sandy roads of the cape, or sailing in his yacht, or dining at his house, or at some later and less regular entertainment in the garret in which I used to live, he had a kind of benevolent beaming in his face which gave unction to enjoyment.

People often speak of correcting the judgment of the time by that of posterity. I think it is quite as true to say that we must correct the judgment of posterity by that of the time. A small man may be remembered for some little felicity which enabled him to write a successful lyric, or in some way to charm the senses or emotions of a world always readier with its rewards for pleasures than for great thoughts or deeds. But I know of no true measure of men except the total of human energy which they embody, — counting everything, with due allowance for quality, from Nansen's power to digest blubber or to resist cold up to his courage, or to Wordsworth's power to express the unutterable, or to Kent's speculative reach. The final test of this energy is battle in some form, — actual war — the crash of arctic ice — the fight for mastery in the market or the court. Many of those who are remembered have spared themselves this supreme trial, and have fostered a faculty at the expense of their total life. It is one thing to utter a happy phrase from a protected cloister; another to think under fire, — to think for action upon which great interests depend. The most powerful men are apt to go into the mêlée and fall or come out generals. The great problems are questions of here and now. Questions of here and now occupy 999/1000 of the ability of the world, — and when the now has passed and has given place to another now, the heads and hands that built the organic structure of society are forgotten from the speech of their fellows, and live only in the tissue of their work.

Such may be the fate of the man whom to-day we remember and honor. But remembered or forgotten, few indeed, I believe, of those whom I have seen counted for as much in the hardest work of the day. I do not regret that it should be known by few. What is any remembrance of men to our high ambition? Sooner or later the race of men will die; but we demand an eternal record. We have it. What we have done is woven forever into the great vibrating web of the world. The eye that can read the import of its motion can decipher the story of all of our deeds, of all of our thoughts. To that eye I am content to leave the recognition and the memory of this great head and heart.

The Court will adjourn.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